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10/647,101

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Wallace C. Turbeville

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EXAMINER

MONFELDT, SARAH M

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

02/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/647,101	Applicant(s) TURBEVILLE ET AL.	
	Examiner SARAH M. MONFELDT	Art Unit 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION
Status of Claims

1. This action is in reply to the Amendment/Response filed on 22 January 2008.
2. Claims 1-3, 5-11, 14-16 were indicated as amended.
3. Claim 12 was indicated as ORIGINAL but appears to be amended, appropriate correction is required in the next correspondence.
4. Claims 17-21 were added.
5. Claim 4 was indicated as canceled.
6. Claims 1-3, 5-21 are currently pending and have been examined.

Response to Amendments

7. The objection of claims 5, 7-11, 14 for not ending with a period has been withdrawn in view of Applicants amendments to these claims.
8. The rejection of claim 1 with respect to antecedent basis issues has been withdrawn in view of Applicants amendment of claim 1. Please note however the Office Action indicated all of claims 1-16 contained antecedent basis issues, thus with regard to the other claims the rejection will be addressed below.
9. The rejection of claim 1 and claims 5-11 with respect to vague & indefinite issues has been withdrawn in view of Applicants amendments.
10. The rejection of claim 1 with respect to relative terminology has been withdrawn in view of Applicants amendment to claim 1.
11. The drawings were received on 22 January 2008. These drawings are acceptable.

Examiner Interview

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12. In response to Applicants comments in the Amendment/Response dated 22 January 2008 with regard to the in person interview conducted on 17 October 2007, the Examiner would like to make clarifications as to what was discussed during the interview for the record. Proposed amendments were received prior to the Interview and verbally discussed as to why the proposed amendments did not overcome Garman and Semple et al. The Examiner pointed out that the claims contain "if" which is an optional term, i.e. does not expressly required the limitation, and therefore does not further limit those limitations which include the recitation of "if". In view of this assessment, further verbal proposed amendments were discussed. The Examiner also pointed out that by changing the term "expressed" to "calculated" in claims 5-11 would constitute as new matter since "expressed" and "calculated" are terms which have very different meanings and further since claims 5-11 did find antecedent basis in the specification as filed, the specification as filed thus does not find support for changing the term from "expressed" to "calculated". The Examiner further requested that if Applicants disagreed with the assessment of "expressed" and "calculated" that Applicants point the Examiner to the portions of the specification as filed which support these changes.

Priority

13. Applicants claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged. Please note claims 1-16 filed 22 August 2003 do not find support in Provisional Application No. 60/407070 filed 30 August 2002 and Provisional Application No. 60/405607 filed 23 August 2002. For the purposes of Examination claims 1-16 have an effective filing date of 22 August 2003.
14. Please note that even though Applicants argue the above provisional applications support the original claim set and originally filed specification, Applicants have not pointed to specific sections of the provisional applications and the corresponding originally filed application to show where the support is held. As such the Examiner maintains that the original claim set of claims 1-16 has an effective filing date of 22 August 2003.

Information Disclosure Statement

15. It is noted Applicants have not filed an Information Disclosure Statement. Applicants are reminded that they have a continuing duty of disclosure under 37 CFR 1.56.
16. The Examiner further notes that a search report was issued for WO 2004/019255 which claims priority to Provisional Application 60/405607 filed 23 August 2002 and Provisional Application 60/407070 filed 30 August 2002. Please note the present application claims the benefit of the above provisional applications.

Specification

17. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 3 and 5-16, 17-21, contain limitations that fail to find support in the specification as filed, which in turn fail to find support in either provisional application which the present application claims the benefit of.
18. The amendment filed 22 January 2008 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: As presented in the Office Action mailed 23 July 2007, claims 3, and 5-16 contained limitations that failed to find support in the specification as originally filed. In the Amendment/Response filed 22 January 2008 Applicants amended claims 3, 5-11, 14-16 and further amended the specification to incorporate the amended claims into the specification. Also with regard to the amendments made to pages 6-7 these amendments are not supported by the original disclosure, i.e. the amended paragraphs contain terminology which was not present in the original specification, etc. As such, the Examiner constitutes this as new matter. Furthermore, Applicants have not pointed to specific portions of the original specification which support the amendments to the claims and specification. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

19. Claims 12-13, 15, 17 remain objected to because of the following informalities: These claims should end with a period and not a semi-colon. Appropriate correction is required. (1) please note the identifier for claims 12 and 13 is ORIGINAL and does not indicate amendments to these claims; (2) please note claim 15 does not show the deletion of the semi-colon, only the addition of the period.
20. Claim 17 contains typographical errors, line 6 should recite "the credit line or the collateral amount", appropriate correction is required.

Claim Rejections - 35 USC § 112, first paragraph

21. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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22. Claims 5-16 and 18-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 5-16 and 18-21 do not find antecedent basis in the specification as originally filed. Appropriate correction is required.

Claim Rejections - 35 USC § 112, second paragraph

23. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

24. Claims 1-3, 5-17, 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Antecedent Basis

- i. Claim 3 recites "the margin amounts", there is insufficient antecedent basis for this limitation. Appropriate correction is required.
- ii. Claims 5, 10, 11 recites "the value at risk measurement", there is insufficient antecedent basis for this limitation. Appropriate correction is required.
- iii. Claim 11, recites "the contract value", there is insufficient antecedent basis for this limitation. Appropriate correction is required.
- iv. Claim 21 recites "the existing portfolio", there is insufficient antecedent basis for this limitation. Appropriate correction is required.
- v. Claim 21 recites "the value at risk of the existing portfolio", there is insufficient antecedent basis for this limitation. Appropriate correction is required.

Vague & Indefinite:

- vi. Claim 1 recites "existing portfolio" and "portfolio", it is not clear whether these two recitations are intended to be one in the same. Appropriate correction and clarification is required.
- vii. Claim 2 recites "the new trade" in lines 2, 4, 5, it is not clear whether this recitation is referring to the "any rejected new trade" recited earlier in claim 2 or the "new trade" recited in claim 1. Appropriate correction and clarification is required.
- viii. Claim 2 recites "a value at risk" in line 4. It is not clear which "value at risk" recited previously in claim 1 this recitation is referring to, i.e. in the portfolio, of the new trade, etc. Appropriate correction and clarification is required.

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- ix. Claims 5-11 recite "calculated", it is not clear how these calculates occur since the original disclosure does not provide guidance with respect to these calculations. Appropriate correction is required.
- x. Claims 12-16 recite "value at risk", it is not clear which "value at risk" these are referring to, i.e. i.e. in the portfolio, of the new trade, etc. Appropriate correction is required.
- xi. Claims 14-16 recite "a new trade", it is not clear whether this is attempting to refer to the "new trade" previously recited in claim 1 or if it is an additional new trade. Appropriate correction is required.
- xii. Claim 17 recites "a unit" in line 10, it is not clear whether this "unit" is different than the "unit" previously recited. Appropriate correction is required.
- xiii. Claim 17 recites "a value at risk" in line 10, it is not clear whether this "value at risk" is different that that previously recited. Appropriate correction is required.
- xiv. Claim 21 recites "that redetermination", it is not clear what this is referring to since a redetermining step has not occurred. Appropriate correction is required.

Relative Terminology:

- xv. The term "*certain*" in claim 13 is a relative term which renders the claim indefinite. The term "*certain determinations*" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Appropriate correction is required.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

27. Claims 1-3, 5-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garman (US 5,819,237) in view of Semple et al. (WO 02/25535).

Examiner's Note: The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the

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specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Claim 1 –

As per claim 1, Garman, at least at Figs. 2-4; col. 4, ll. 7-10, 24-33, 47-51; col. 5, ll. 17-26, 57-59; col. 6, ll. 25-27, 36-38; col. 8, ll. 42-50, disclose *a method of determining whether to allow a new trade of a contract into an existing portfolio* having the limitations of:

- *evaluating a total value at risk in a portfolio of traded contracts;*
- *comparing a value at risk in the portfolio to the value of the credit line or the collateral to calculate an available margin;*
- *calculating an allowable notional trade volume, allowable notional trade quantity and a risk per unit of commodity for a new trade;*
- *determining whether the new trade has a value at risk which exceeds the available margin;*
- *approving the new trade if it is determined that the value at risk of the new trade does not exceed the available margin; and*
- *rejecting the new trade if it is determined that the value at risk of the new trade exceeds the available margin.*

Garman does not explicitly disclose the following limitations:

- *determining a credit line or collateral value supporting trading*

Semple et al. teach *determining a credit line or collateral value supporting trading* (see at least page 23, lines 14-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Garman to include the initial margin and variation margin as taught by Semple et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Garman in this way since subscribers identify assets acceptable to the exchange that can be used for margin to support positions (see at least page 4, lines 25-27 of Semple et al.).

Claim 2 –

As per claim 1, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 4, ll. 47-51; col. 8, ll. 42-50, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *reviewing any rejected new trade to see if the effect of the new trade would have the effect of increasing the available margin and determining whether the new trade has a value at risk which*

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exceeds the available margin as modified by the new trade, and approving or rejecting the new trade based on that redetermination.

Claim 3 –

As per claim 3, Garman in view of Semple et al. teach the method of claim 1 as described above. Semple et al., at least at page 3, lines 27-29, further disclose *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *setting the margin amounts by reviewing traditional credit information and establishing limits on risk.*

The motivation for making this modification to the teachings of Garman is the same as that set forth above, in the rejection of Claim 1.

Claim 5 –

As per claim 5, Garman in view of Semple et al. teach the method of claim 1 as described above. Semple et al., at least at page 9, lines 14-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the value at risk measurement is calculated based on a per contract unit basis.*

The motivation for making this modification to the teachings of Garman is the same as that set forth above, in the rejection of Claim 1.

Claim 6 –

As per claim 6, Garman in view of Semple et al. teach the method of claim 5 as described above. Semple et al., at least at page 9, lines 7, 14-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the contract unit is calculated based on units of a commodity.*

The motivation for making this modification to the teachings of Garman is the same as that set forth above, in the rejection of Claim 1.

Claim 7 –

As per claim 7, Garman in view of Semple et al. teach the method of claim 5 as described above. Semple et al., at least at page 9, lines 14-16, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

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- *wherein the contract unit is calculated based on units of currency.*

The motivation for making this modification to the teachings of Garmen is the same as that set forth above, in the rejection of Claim 1.

Claim 8 –

As per claim 8, Garman in view of Semple et al. teach the method of claim 5 as described above. Semple et al., at least at page 9, lines 14-16, 24-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the contract unit is calculated based on units of time.*

The motivation for making this modification to the teachings of Garmen is the same as that set forth above, in the rejection of Claim 1.

Claim 9 –

As per claim 9, Garman in view of Semple et al. teach the method of claim 5 as described above. Semple et al., at least at page 9, lines 7, 14-16, 24-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the contract unit is calculated based on a combination of units of time, currency and/or commodity.*

The motivation for making this modification to the teachings of Garmen is the same as that set forth above, in the rejection of Claim 1.

Claim 10 –

As per claim 10, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the value at risk measure used is calculated based on a percentage of an index value.*

The motivation for making this modification to the teachings of Garmen is the same as that set forth above, in the rejection of Claim 1.

Claim 11 –

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As per claim 11, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the value at risk measurement used is calculated based on a percentage of the contract value.*

Claim 12 –

As per claim 12, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein different determinations of value at risk are made for specific products and contract terms.*

Claim 13 –

As per claim 13, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein certain determinations of value at risk may cover may different products and/or contract terms.*

Claim 14 –

As per claim 14, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the value at risk exceeds the available margin for a new trade by comparing the value at risk for a unit quantity of the new trade to the available margin.*

Claim 15 –

As per claim 15, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the value at risk exceeds the available margin for a new trade is done by comparing the value at risk for a dollar value of new trade.*

Claim 16 –

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As per claim 16, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein determining if the value at risk exceeds the available margin for a new trade by comparing the value at risk for a quantity of the new trade multiplied by an index value to the available margin.*

Claim 17 –

As per claim 17, Garman, at least at Figs. 2-4; col. 4, ll. 7-10, 24-33, 47-51; col. 5, ll. 17-26, 57-59; col. 6, ll. 25-27, 36-38; col. 8, ll. 42-50, disclose *a method of determining whether to allow a new trade of a contract into an existing portfolio* having the limitations of:

- *evaluating a total value at risk in a portfolio of traded contracts;*
- *comparing a value at risk in the portfolio to the value of credit or collateral amounts to calculate an available margin;*
- *calculating an allowable notional trade volume, allowable notional trade quantity and a risk per unit commodity for a unit of a new trade;*
- *determining whether a unit of the new trade has a value at risk which exceeds the available margin;*
- *determining how many units of the new trade can be added to the portfolio without exceeding the available margin.*

Garman does not explicitly disclose the following limitations:

- *determining a credit line or collateral value supporting trading*

Semple et al. teach *determining a credit line or collateral value supporting trading* (see at least page 23, lines 14-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the method of Garman to include the initial margin and variation margin as taught by Semple et al. One of ordinary skill in the art at the time of the invention would have been motivated to expand the method of Garman in this way since subscribers identify assets acceptable to the exchange that can be used for margin to support positions (see at least page 4, lines 25-27 of Semple et al.).

Claim 18 –

As per claim 18, Garman in view of Semple et al. teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

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- *wherein the unit of the new trade is a unit quantity of the new trade.*

Claim 19 –

As per claim 19, Garman in view of Semple et al. teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the unit of the new trade is a dollar value of new trade.*

Claim 20 –

As per claim 20, Garman in view of Semple et al. teach the method of claim 17 as described above. Garman, at least at col. 5, ll. 17-26, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *wherein the unit of the new trade is a quantity of trade multiplied by an index value.*

Claim 21 –

As per claim 1, Garman in view of Semple et al. teach the method of claim 1 as described above. Garman, at least at col. 4, ll. 47-51; col. 8, ll. 42-50, further discloses *a method of determining whether to allow a new trade of a contract* having the limitations of:

- *re-analyzing a rejected new trade to determining the effect of the rejected new trade on the existing portfolio, by determining if the rejected trade would increase or decrease the value at risk of the existing portfolio, and approving or rejecting the new trade based on that redetermination.*

Response to Arguments

28. Applicant's arguments filed 22 January 2008 have been fully considered but they are not persuasive for at least the following reasons:

Conditional Language:

- i. The claims recite conditional/passive/optional language, i.e. if, and therefore, do not positively recite/require all limitations or elements. (a) As matter of linguistic precision, optional claim elements do not narrow claim, since they can always be omitted; (b) language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation, see at least MPEP §2106 II C.
- ii. The above limitation contains the conditional term, "if" and "can", which is not absolute language and the recitation of "if" does not give clear metes and bounds of which Applicant is attempting to cover.

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- iii. Furthermore, with respect to claim 1, it is not clear what happens when the value at risk is equal to the available margin since neither the approving nor the rejecting step includes the value being equal.

Garman:

- iv. Applicants argue “Garman does not disclose the following steps: determination of whether a new trade has a value at risk which exceeds the available margin; approving the new trade if it is determined that the value at risk of the new trade does not exceed the available margin; and rejecting the new trade if it is determined that the value at risk of the new trade exceeds the available margin.”
 - 1. With regard to the latter two limitations cited by Applicants, the Examiner has addressed these limitations above with regard to the conditional language recitation of “if”. Furthermore, please refer to col. 4, ll. 5-52 of Garman which discusses the determination of whether or not to execute a candidate trade.
 - 2. With regard to the step of “determination of whether a new trade has a value at risk which exceeds the available margin”, Garman at least at col. 4, ll. 24-32, 47-52 discloses this limitation. Please note that the claims as written do not require the total VaR in the portfolio be recalculated the claims only require “determining whether the new trade has a value at risk which exceeds the available margin” (please note “a total value at risk in a portfolio” is recited in line 5 of claim 1).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SARAH M. MONFELDT whose telephone number is (571)270-1833. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm (EST) ALT Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sarah M. Monfeldt
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